STATE OF MICHIGAN

COURT OF APPEALS

In re SENIOR, Minors.

UNPUBLISHED
January 14, 2021

No. 352838
Tuscola Circuit Court
Family Division
LC No. 16-011027-NA

Before: FORT HOOD, P.J., and CAVANAGH and TUKEL, JJ.

PER CURIAM.

Respondent-mother (the "mother") appeals as of right the circuit court's order terminating her parental rights to two of her minor children, HM and CB (collectively, "the minor children"), pursuant to MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (i), and (j).[1] We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case arises out of the mother's failure to retain stable, suitable housing over the course of several years and her pattern of engaging in relationships with violent men with criminal backgrounds, including domestic-violence convictions. Before the initial petition was filed in 2016, the mother admittedly perjured herself while testifying in a criminal case concerning the father's domestic violence against her. She falsely testified that she could not distinguish between "reality and the thoughts in her head" and "couldn't remember if the domestic dispute actually happened or if it was all in her mind." At the time, she and the minor children were living with the father at his sister's home, contrary to a "no contact" order. The mother admittedly committed perjury, claiming that she feared the father and was afraid of losing her housing.

Early in 2016, a petition was filed against the mother and the minor children were placed with their father. Around the same time, the mother ended her relationship with the father and began dating Brandon Hutchinson, whom she knew to be a registered sex offender. In August 2016, the trial court entered an order prohibiting Hutchinson from being present during the

[1] Several months later, the trial court terminated the minor children's father's parental rights and he has appealed that decision in Docket No. 354552.

mother's supervised parenting time, pending adjudication. Despite this order, the mother continued her relationship with Hutchinson, ultimately becoming pregnant with his child, HH, who is not at issue in this appeal. At times during this case, Hutchinson was incarcerated, as was the minor children's father.

In September 2016, both parents entered pleas of either admission or no-contest, which formed the factual basis for adjudication. As relevant here, the mother pleaded no contest to an allegation that her parental rights to three other children were previously terminated "due to physical neglect, substance abuse and domestic violence." The mother also admitted that (1) she had been involved in a romantic relationship with the father for about four years and during that time there had been "incidents of domestic violence," (2) on approximately June 30, 2013, the police had responded to a report of domestic violence after the father, who had been drinking, got in her face but "nothing physical occurred," (3) on approximately December 5, 2013, the police had responded to another domestic-violence incident between the couple, during which incident HM was present, and the mother bit the father's finger in "self-defense" and suffered "scratche[s] to her face and neck" and "marks around her neck and on her legs," (4) on approximately February 15, 2016, the police responded to another report of domestic violence, during which incident the minor children were present but asleep, both parents were "under the influence of alcohol," the father "strangled [the mother] multiple times and slammed her into furniture and onto the floor," and the mother punched him in the face, and (5) the family's home had "burned down recently" and they lacked "an established home for the children[.]"

Before accepting the mother's admissions and no-contest plea, the trial court informed the parties that, if a plea was entered, the court would not terminate parental rights at the initial disposition as petitioner had requested. The trial court also questioned the mother about whether she understood her attorney's "representations as to . . . entering a plea" and the rights the mother would waive by doing so. As further discussed later, the trial court also advised the mother of her rights in accordance with MCR 3.971(B). When asked whether she understood the trial court's advice of rights, the mother indicated that she did. When asked whether she had any questions about that advice of rights, she ultimately replied: "No, not at this time."

At the initial dispositional hearing in November 2016, the assigned Child Protective Services (CPS) caseworker, Kevin Zaborney, testified that the children remained in their placement with the father and his live-in partner. Although the children were doing well and their basic needs were being met, there had been some issues related to the children's health and safety which were concerning. Zaborney opined that the father's participation in services was necessary to maintain the minor children's placement with him.

Following a "physical abuse" incident later in November 2016, the minor children were removed from the father and placed in foster care. It was discovered that the father—who had reported that HM fell down the stairs—had spanked the child severely, leaving extensive bruising and causing severe pain. The children remained in that placement with the same foster parents throughout the remainder of these proceedings.

In February 2017, the trial court held the first of what would become a lengthy series of review and permanency planning hearings, spanning almost three years. During such hearings, the trial court received testimony from a series of different caseworkers, several of whom worked

on the case for only a short time, for various reasons. In general, the mother's supervised parenting time went well at the outset. She also initially secured housing and employment. Indeed, in February 2018, over the objection of the children's lawyer-guardian ad litem (LGAL), the trial court granted the mother unsupervised parenting time and things seemed to be progressing toward overnight visits and then reunification.

By August 2018, however, Hutchinson had been released and was residing with the mother, along with their child, HH. At a review hearing, caseworker Charles Collis testified that Hutchinson's presence in the mother's household presented a barrier to reunification with the mother unless the trial court modified its prior "no contact" order concerning Hutchinson's presence around the minor children. In Collis's view, however, given Hutchinson's status as a sex offender, it was only appropriate for him to have supervised contact with the minor children, at least initially. When Collis explained to the mother that her relationship with Hutchinson was the last remaining "barrier" to reunification with the minor children, she responded that Hutchinson was HH's father and would therefore "interact" with the minor children "at some point regardless[.]" In hopes of facilitating parenting-time supervision when Hutchinson was present, Collis attempted to get the maternal grandmother approved to supervise parenting time, but under agency policies, he could not because the grandmother was "on the [Child Abuse and Neglect] Central Registry[.]"

Ultimately, the mother failed to make consistent progress. Despite its status as a barrier to reunification, she elected to remain in her relationship with Hutchinson; her parenting time was limited to supervised visits only after she was found to have violated the trial court's no-contact order concerning Hutchinson and subsequently lied about the incident; her relationship with caseworkers soured and became combative; and she failed to consistently maintain suitable housing or a sufficient source of income to obtain and retain such housing. Thus, following a review hearing in November 2018, the trial court limited the mother's parenting time to supervised agency visits and changed the permanency planning goal to adoption.

The mother's termination proceedings began in September 2019 and spanned 11 court dates, ending on in January 2020. At the outset, the trial court took judicial notice of the entire record, including all previous proceedings, and of the mother's previous termination proceedings involving her other children. Melissa Laming, who was employed as a "Family Skills worker" at Professional Counseling Center in Marlette, testified that she worked with respondents and the minor children from May 2016 to September 2016, meeting with them for about one hour twice each week, generally at the maternal grandmother's small, one-bedroom home. At the beginning of the case, Laming recalled seeing a man—later identified as Hutchinson—in a vehicle parked in the driveway of the maternal grandmother's house. The mother initially identified the man as "a friend that would drive her to work." Later, however, the mother admitted that she had been untruthful, and stated that Hutchinson was her boyfriend and it was nobody's business. At some point, Laming became aware that the mother had introduced Hutchinson to the minor children during a visit, and he subsequently began to attend supervised parenting visits with the mother, sometimes bringing his own children as well. At other times, the mother brought Hutchinson's children with her to supervised visits, explaining that she was caring for those children while Hutchinson was at work. After learning that Hutchinson was a registered sex offender, Laming informed the mother of that fact and advised her to "focus on her children" and their safety. On "several" occasions, the mother replied to those concerns by indicating that Hutchinson and his

children were "going to be a part of" her life and the lives of the minor children, and "he was not going anywhere." The mother also indicated that she believed Hutchinson had been "wrongfully accused" of the offense that resulted in his sex-offender registration. When Laming indicated that it would be more appropriate for the mother to spend her supervised parenting time focusing on the minor children, offering alternative parenting-time arrangements that would permit the mother to visit the minor children without Hutchinson and his children, the mother initially declined those alternatives. In Laming's view, the mother "wasn't putting her children first[.]" Later, however, the mother agreed to the alternative arrangements offered by Laming. "[A] majority of the time," the mother was "cooperative" with Laming, but not when it came to Hutchinson.

Some of the contact that Laming observed between Hutchinson and the minor children occurred after the trial court had entered its initial no-contact order concerning Hutchinson. On one occasion in particular, Hutchinson was asleep in the maternal grandmother's home when a parenting visit was scheduled to occur. Aware of the no-contact order, Laming informed the mother that unless Hutchinson left the premises, the visit would have to be moved to another location. In reaction, the mother—in the presence of the minor children—"had gotten upset, and was yelling profanities, and things of that nature[.]" On other occasions after the no-contact order was entered, Laming observed the mother direct the children to wave and say hi to Hutchinson while he was waiting outside. It troubled Laming that, although the mother was only receiving two hours of supervised parenting time with the minor children each week, she was unable to focus exclusively on her children during that limited timeframe. Moreover, Hutchinson was "not appropriate" when he was present during supervised visits. He would "interject" himself into conversations between the mother and caseworkers. Overall, although Laming believed that the mother had either "good" or "great parenting skills" and a solid bond with the minor children, Laming nevertheless had concerns about the mother's relationship decisions and tendency to not put the children first during some visits.

Michelle Schmitzer, an expert in "substance abuse and mental health counselor," testified that she "conducted a chemical dependency assessment" on the mother in July 2016, which consisted of a number of psychological screening tests, all of which rely on self-reporting. The results suggested that the mother was very open about her history of use, including her last reported use of alcohol on July 4, 2016, and that the mother was "in remission" with regard to "narcotics," having abstained "for over one year" before the assessment from the "pretty hard drugs" she had previously used. The mother's reported alcohol use did not appear to be "an abusive use." But the screening results also indicated "a high probability of a substance dependence disorder," and such results suggested that if the mother returned to drug use, it would likely be severe and potentially uncontrollable. Moreover, on cross-examination, Schmitzer agreed that because her assessment was entirely dependent on self-reported information and was conducted as part of these child protective proceedings, it "would be fair" to describe the process as "a self-serving evaluation" for the mother. On the whole, however, nothing about Schmitzer's assessment or interview with the mother led her to believe that the mother was being untruthful or self-serving with regard to her reported substance use.

Jessica Beatty served as a parenting-time supervisor in this case in 2016 and 2017. On at least one occasion when Beatty arrived at the maternal grandmother's home, Hutchinson was present. Because Beatty was aware of the no-contact order regarding Hutchinson, she kept the minor children in her vehicle and indicated that Hutchinson would have to leave before the visit

could take place. The mother asked whether Hutchinson could stay if he remained in the bedroom throughout the entire visit, and Beatty said that he could not. The mother was persistent, and Beatty eventually indicated that if Hutchinson did not leave, the visit would have to be held elsewhere. Eventually, Hutchinson left.

According to Beatty, during a subsequent supervised visit, the mother observed bruising on HM's buttocks (i.e., the bruising that was later determined to have been caused by the father's spanking), and Beatty and the mother took HM to the hospital for an assessment. Upon finding the bruises, the mother "was hysterical," "crying and yelling." Under the circumstances, HM was permitted to stay at the mother's house just for that night, but only on the condition that Hutchinson not be present. The mother became "really upset" that Hutchinson was not allowed to stay the night and said: "I would rather let my kids go to foster care if [Hutchinson] can't stay[.]"[2] During another supervised visit, Hutchinson arrived at the home before the visit was over, and although he remained outside, the mother had the children wave out the window.

Foster care caseworker Ken Dupure testified that in December 2016, after he became the assigned caseworker in the case, he met with the mother and Hutchinson. During the meeting both the mother and Hutchinson "had a threatening tone in . . . their voices." Dupure explained that they seemed "angry" and "frustrated with the whole ordeal." Although the parenting visits that Dupure had supervised generally consisted of good interactions, HM and the mother would get emotional. At times, Dupure had to intervene when the mother began to make promises to HM about the outcome of these proceedings, such as, "you'll be home soon[.]" Dupure agreed, however, that the mother and the minor children had a bond.

With regard to Hutchinson, Dupure indicated that it was common for Hutchinson to become aggravated, or angry, with Dupure. Hutchinson would speak in a high, angry voice, and when he did not understand situations or how they were getting handled, Hutchinson would "call [Dupure] out about them." When Hutchinson would become angry, he would attempt to be intimidating physically. Hutchinson's hostility made Dupure a little uneasy, but not to the point that Dupure was ever concerned for his safety. Although Dupure never witnessed anything "physical" occur between the mother and Hutchinson, some of the arguments Dupure observed between them—including arguments during the parenting times—were concerning. In general, parenting time went a lot smoother when Hutchinson was not present. Both Hutchinson and the mother seemed prone to "emotional instability," and it was very difficult to communicate with the mother when Hutchinson was present because he would interrupt. Hutchinson's presence tended to make the mother less cooperative than usual. Although Dupure offered Hutchinson counseling services and a psychological evaluation, he did not believe that Hutchinson ever participated in those services. Dupure agreed that he had recommended termination of the mother's parental rights because of her lack of suitable housing and her "unstable relationship" with Hutchinson.

As aptly summarized by the trial court:

[2] The mother admitted that she made this statement, but indicated that it was "a sarcastic comment[.]"

> The relationship between mother and Mr. Hutchinson was the subject of the testimony of Officer Robert Gaiser. On May 12, 2017, Officer Gaiser was dispatched to a home on Northview Drive, Caro. At that time, the Officer made contact with mother, who had explained that she had an "on/off" relationship with Mr. Hutchinson. She was not currently residing with Mr. Hutchinson as he had threatened her in the past; and, mother believed that Mr. Hutchinson had a mental health problem. She had blocked Mr. Hutchinson on social media and was worried about him. At the end of the contact, Officer Gaiser suggested that mother seek a personal protection order, to which mother agreed that she would.

The mother indicated that although she recalled this incident in general, she did not recall making any statements to Officer Gaiser or any other police officers on the date in question.

HM's former therapist, Laura Brown, testified that she held biweekly therapy sessions with HM, lasting about one hour each, from July 2017 through May 2018. The foster parents "always" reported that HM "was really anxious at home." As one example, there was an instance when "she was like picking paint off the wall." Accordingly, Brown tried to help HM "explore . . . why she was anxious." In some sessions, HM avoided talking about her mother; thus, Brown initially recommended supervised parenting time only. Later, however, after the mother attended two therapy sessions, Brown did not see any harm in the interactions between the mother and HM. Rather, the mother "was being an appropriate parent." On that basis, Brown recommended unsupervised parenting time at a review hearing in February 2018. However, Brown was not aware that the mother was dating a registered sex offender at the time. Had she been aware, she "[p]robably" would not have recommended unsupervised parenting time, and she agreed that, in "hindsight," she "probably" should have made further inquiries before making such a recommendation in the first instance. But because Brown was under the impression that Hutchinson was incarcerated when she made the disputed recommendation, she did not believe it necessary to consider him as part of the parenting-time equation.

Cristen Wisniewski became the assigned foster care caseworker sometime around September 2017, taking over the case after Dupure. While assigned the case, Wisniewski supervised "a handful" of the mother's visits with the minor children, but Wisniewski could not recall precisely how many, and Heather Jensen served as the supervisor for other visits. During the visits that Wisniewski supervised, the mother provided the necessities for the kids, like food and diapers. Wisniewski's overall opinion of the mother was that "she was a good mom," who "took care of her children when she had her parenting time visits," "loved her children," and was "actually invested in her children." There was a definite bond between the mother and HM, and Wisniewski also observed a bond between the minor children and the foster parents. Wisniewski later left her agency for a different job.

Stacey McAuliffe took over as the assigned caseworker after Wisniewski's departure in late March 2018, but remained in that position for less than two months. McAuliffe had no concerns about the minor children's foster placement during her involvement in the case. When McAuliffe was first assigned this case, the mother was receiving unsupervised parenting time and had been doing well with services. But after it was revealed that the mother had been exposing the minor children to Hutchinson during such visits, the mother's parenting time was restricted to supervised agency visits. The mother initially denied that any such contact had occurred, but

McAuliffe confirmed that it had—in violation of the trial court's no-contact order—by listening to a recording of a telephone conversation that Hutchinson had with HM while Hutchinson was incarcerated. McAuliffe later learned of Hutchinson's criminal background and that several individuals had outstanding personal protection orders (PPOs) against him.

During McAuliffe's involvement in this case, her primary concerns about the mother regarded: the mother's decision to continue a relationship with Hutchinson despite having been informed that Hutchinson posed an obstacle to reunification; the mother's decision to allow Hutchinson to live with her after he was released from jail; the mother's "lack of truthfulness;" and her knowing violation of the no-contact order. On one or two occasions, McAuliffe expressed her concerns about Hutchinson to the mother, who responded that she was in a tough spot because Hutchinson was the father of HH. Other than the mother's decision to "repeatedly" choose Hutchinson over the children—and her poor decisions regarding men in general—McAuliffe believed that the mother was a good, appropriate parent. Sometime around June 2018, the case was transferred from McAuliffe's private agency, after which McAuliffe had no further involvement.

Heather Jensen indicated that, from June 2017 to February 2018, she had served as the parenting-time supervisor in this case. When asked for her observations about the mother's parenting in general, Jensen replied:

> I . . . felt like [the mother] had developed good parenting skills. She was attentive, she was loving, and she—she was on top of discipline, on top of safety. She was clear about giving instructions to the children. And I—I thought that in general she tried hard to to make the right choices. And whenever there was an instance where we asked her to make a change, she did that readily, and without any argument or complaint.

For instance, when the LGAL suggested that the mother not take breaks to smoke during visits, the mother did so immediately, although it concerned Jensen that the mother continued to smoke while pregnant with HH. Jensen could recall only one instance when the mother used profanity in the presence of the minor children, but "she quickly recovered" from that lapse and corrected herself. The mother was also diligent about changing CB's diapers during visits, and she did her best to feed the children nutritious food—such as milk, vegetables, fruit, and cheese—during the visits, although they sometimes refused to eat because they were not hungry. Although the mother sometimes fed the minor children candy, the amount provided was appropriate, as was her use of discipline with the children.

On cross-examination, however, Jensen admitted that the mother had, at times, served the minor children fast food, and had served them "Lunchables" about once a week. Moreover, there were times when the mother would become "angry" with the minor children. About "one out of three visits . . . she would yell" at the children, but after getting their "attention" with "an initial yell," she would proceed to "address the situation more calmly." Jensen did not find this necessarily inappropriate.

According to Jensen, HH attended most of the parenting times after he was born and the mother balanced her care of all three children well. The maternal grandmother, in whose "very

small" home most of the visits occurred, "needed a lot of care herself" and did not seem to be physically capable of caring for the minor children independently, but when the mother took breaks to go outside and smoke, she left the minor children in the maternal grandmother's care. At the end of visits, HM would indicate that she did not want to leave and that she wanted to stay with her mom. CB would also be somewhat "obstinate" about leaving the visits, though he never became as upset and emotional as HM. Overall, after the mother had secured appropriate housing, Jensen did not have any major concerns about the mother's parenting skills. Jensen also opined that the mother had made steady progress during Jensen's involvement in this case and was a good parent, though Jensen qualified her opinion by indicating that her last contact with the mother had been "18 months ago."

In May 2019, the LGAL retained Nancy Stimson, a professional investigator, to investigate, among other things, the mother's driving record, Hutchinson's criminal history, and an incident involving the mother in Citrus County, Florida. With regard to Hutchinson, Stimson's investigation revealed past charges or convictions for marijuana possession, retail fraud, domestic violence, and various traffic offenses, along with the conviction of second-degree criminal sexual conduct that necessitated his registration as a sex offender. Stimson also discovered that "three different women," two of whom had previously been in a relationship with Hutchinson, had secured PPOs against him between May 2006 and April 2009. The mother subsequently admitted that she had a pending "non-pickup bench warrant" concerning a felony "possession charge" in Florida from sometime around December 2011. The mother admitted that the Florida warrant arose out of her failure to complete a drug court diversionary program, and that the original charges included "Robbery by Sudden Snatching," "Aggravated Assault Deadly Weapon," "Grand Theft $300.00 or more," and "Possession of a Controlled Substance[.]" Also, during the pendency of this case, the mother spent a week in jail in Michigan related to "a warrant for fines here."

Roscommon Sheriff's Deputy Jonah Schutte testified that on an afternoon in November 2018, he investigated a complaint that, while picking up his children, Hutchinson got into a physical altercation with his 15-year-old son, RH, whom Hutchinson had allegedly choked. Because Deputy Schutte never spoke with Hutchinson directly, he was unable to obtain Hutchinson's version of the events. But when RH was interviewed, he indicated that he had been trying to get up, and Hutchinson kept pushing him back down. Eventually, RH "pushed his dad back, and then that's when his dad grabbed him by the neck area, and shoved him back down on the couch."

The assigned caseworker at the time of the termination hearing, Collis, testified that his relationship with the mother had remained strained and oppositional, though the mother continued to communicate with him via text messages and e-mails. At the beginning of his involvement in the case, Collis and the mother got along very well and it was very easy to communicate. But after a family team meeting in which it was suggested that Hutchinson leave the mother's household, the relationship had progressively deteriorated.

Collis indicated that he had supervised "dozens" of the mother's parenting-time visits, and such visits went "very well." He had no concerns with regard to the mother's interaction with the minor children during supervised visits. But outside the "bubble" of supervised visits, he had concerns about the mother's parenting decisions. He explained:

> Well, my concerns are the choices that are made in this case. It's easy to play with your kids, it's easy to feed them, it's easy to love them, it's easy to interact appropriately. It's very difficult, at least in this case, for choices to be made that are appropriate for their benefit. That's where my area of concern is, is the choices that are made outside of that parenting room. Parenting room's awesome.

In particular, Collis believed that Hutchinson was the biggest barrier to reunification in this case and had been for quite some time. The minor children had been in foster care for almost three years, and despite having been informed that her relationship with Hutchinson was preventing reunification, the mother continued that relationship and focused on getting the trial court to lift the no-contact order rather than doing what was best for her kids to get them out of foster care and home. According to Collis, the security of the mother's housing situation had also recently become a concern. Collis had received information that the mother might be facing eviction, which she had failed to report to him. Although the mother had applied for Social Security benefits early in this case, she had not updated Collis on the status of that application.

Collis had also learned that the mother had an outstanding arrest warrant in Florida. Moreover, in light of the reports that Hutchinson had recently been involved in a violent incident with his son, RH, and that Officer Gaiser had been dispatched to speak with the mother about a domestic incident involving Hutchinson, Collis was not sure that the mother had fully addressed the domestic-violence issues that led to the adjudication. Collis also was not certain that the mother would report any domestic violence that did occur. The "majority of the time," Collis's interactions with Hutchinson "ended up in yelling, upset, loud talking, very opinionated and aggressive conversations." Despite the trial court ordering in May 2017 that if the mother remained in a relationship with Hutchinson, he would have to submit to a psychological evaluation and engage in recommended services, Hutchinson had never undergone such an evaluation, and thus he had not received any recommendations concerning services. Finally, Collis doubted whether the mother had benefited from her ongoing therapy. Her acting therapist at the time, Lisa Wendling, had reported that a lot of the mother's sessions had been focused on the mother's frustrations with petitioner and the court, and with things that were going on in the case. While it was "great" that the mother was venting such frustrations, the purpose of her therapy services was to help her with coping skills and anger management.

All things considered, Collis opined that termination of the mother's parental rights was in CB's best interests, noting that it would be "very traumatic" for CB to be removed from the foster home, which was where he had spent the vast majority of his life. As to HM, Collis opined that it was "going to be hard no matter which way it goes." Collis believed that termination of the mother's parental rights would be traumatic for HM, but it was nevertheless in her best interests. Collis reiterated that although the mother did well in the "bubble" of supervised parenting visits, outside of such visits, she had made "poor choice, after poor choice, after poor choice" regarding her relationship with Hutchinson. She had become utterly focused on proving that Hutchinson was "a nice guy," and it seemed clear that she had chosen Hutchinson over the minor children.

Without objection, "licensed master social worker" Amy Sember was qualified "as an expert in the field of . . . family therapy counseling." The trial court aptly summarized Sember's testimony as follows:

In June 2018, Amy Sember, a family services clinician from Tuscola Behavioral Health Systems, began a therapeutic relationship with [HM], as well as providing services to mother. At the beginning of this service, mother had indicated that she believed that [HM] had trauma symptoms. However, when Ms. Sember initially met [HM], [HM] proceeded to climb on Ms. Sember's lap and during the second session, [HM] kissed Ms. Sember and asked to live with her. Ms. Sember was concerned with how overly friendly [HM] had been with a stranger. Yet, at the same time, [HM] was guarded in her discussions of her life and was using "coined" phrases regarding the court process.

Ms. Sember worked with mother from June 20, 2018 through January 24, 2019. During this time, Ms. Sember's opinion of the case changed drastically. When Ms. Sember started working with the family, she had hoped to move the case in a positive manner. In fact, at one time, Ms. Sember was supportive of reunification and believed that it would be accomplished by January 2019. After all, mother had displayed the strength of praising the children at times and actually displayed average parenting skills. However, Ms. Sember's opinion changed as she attempted to work on improving mother's parenting within the following specific areas:

> (1) Prioritizing the needs of the children over mother's needs: Mother had consistently chosen Mr. Hutchinson over the children. Mother would state that she would move Mr. Hutchinson out, but never followed through with this. When Mr. Hutchinson would discuss moving out, mother would become teary and reply "no". Mother changed her holiday plans with the children to have dinner with Mr. Hutchinson. Mother would adjust her time with Mr. Hutchinson but not the children.
>
> (2) Empathize with the children ("looking at the world through a child's eyes): Mother failed to grasp this concept in that she would make negative statements regarding the foster care parents without consideration of the children's thoughts. Mother displayed actions and statements indicative of the case being more about her feelings than [HM's] feelings.
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> (3) Regulate impulses and emotions: When offered constructive criticism, mother would use a louder voice, indicating that she didn't want to listen. When parenting time would end, mother would become involved in the crying that occurred; and, Ms. Sember indicated that mother should have reduced this stress herself. In fact, Ms. Sember had to direct mother as to what to do at each stage of the parenting time in order to shorten the window of delay and emotional upset.
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> (4) Developing appropriate relationships for the children: Mother was adamant that upon reunification, she was not going to

> allow any further relationship with the foster care home, a home that the children have known for the past 3 years. Ms. Sember indicated how important some form of contact would be to any child in foster care and how detrimental a complete dissolution of the relationship would be. Mother failed to understand and respect the relationships that the children had developed.
>
> (5) Exercising appropriate judgment for a child's welfare: According to Ms. Sember, mother failed to understand the "no contact" order. And, mother didn't really understand why the children were in foster care. Mother had indicated that the children were in foster care due to mother not testifying against father in a criminal case. Again, though, this was mother's choice. And, pursuant to Ms. Sember, the children were placed in foster care and continued in foster care due to domestic violence issues, exposure to a sex offender, and physical aggression with the case.

Ms. Sember began to utilize the evidence-based basics, trying to reduce the negative behaviors for the children. She began to involve both mother and Mr. Hutchinson in August/September 2018. Ms. Sember was attempting to provide mother the same tools as the foster care family, so as to provide consistency for the children. Unfortunately, Ms. Sember's services came to halt in January 2019.

On January 24, 2019, Ms. Sember was told to leave mother's home. During the last session with mother and Mr. Hutchinson, the pair were dysregulated, upset and using inappropriate language. Mother became upset quickly and her emotions continued to escalate. While Ms. Sember had seen some concerning behaviors from both mother and Mr. Hutchinson in the past, it would usually only be one or the other. On the above date, emotions were heated from the time Ms. Sember entered the home until the time that she left. In fact, Ms. Sember testified that she did not feel safe, due to the yelling by both mother and Mr. Hutchinson, and the constant presence of the maternal grandmother walking behind Ms. Sember. The household was unable to focus on any areas of concern due to this dysregulation and thus, any hope for progress was blocked. All of this was due to [HM] not wanting to take "Scooby loops"[3] home and Ms. Sember supporting [HM] with this decision against the opinion of mother.

While Ms. Sember was aware of mother being in counseling for years, Ms. Sember questioned what mother's therapist knew of the entire situation. After all, Ms. Sember indicated that mother's current situation regarding Mr. Hutchinson was

[3] "Scooby loops" was "a reward program" that was used to incentivize positive behaviors for HM during visitations.

> created by mother and yet, mother was unwilling to solve and resolve it. Thus, there was no evidence of anything else helping mother regarding mother's choices.

In addition, Sember indicated that her concerns about Hutchinson were focused not only on "the fact that he's a registered sex offender," but also that his underlying offense was "an aggressive crime." In Sember's view, it was troubling that, despite therapy and the mother's past experience with domestic violence, she did not view Hutchinson's violent sexual history as a concern.

At the parties' stipulation, Don Wojewoda was qualified "as an expert in the area of mental health[.]" Wojewoda initially began serving as the mother's therapist in January 2013, shortly after the mother gave birth to HM. In August 2013, she was discharged from therapy because "[s]he was doing well." The mother returned to therapy in December 2013, following a domestic-violence incident involving the father. Her second round of therapy with Wojewoda focused on her "mood disorder" and her violent relationship with the father. The mother was "very sharp" and seemed to do "a great job as a mom." She "was very attentive" and "want[ed] to be the best parent she could be." She was again discharged from therapy in December 2014, at which time she had ended her relationship with the father, secured her own housing, and "felt good about where she was at that point."

According to Wojewoda, the mother returned to continue her therapy with him in May 2016, i.e., shortly after these proceedings commenced. "It was voluntary, but she was very distraught." The mother was "frustrated" and "anxious" about the minor children's removal. Her third round of therapy with Wojewoda continued through November or December 2018, but her participation was sporadic at times. During "one quarter," she attended no sessions with Wojewoda, and in "other quarters," she attended "as needed," sometimes "only . . . a couple times" a quarter. Hutchinson sometimes attended the therapy sessions, doing so as a support person, and he was initially very supportive. The mother reported no domestic violence involving Hutchinson, but "there was tension between them" at times. The mother expressed "a lot of confusion as to whether being with [Hutchinson] was going to be beneficial for her, or detrimental to her in getting her children back." At times, she reported that she was "done" with Hutchinson, reporting that she felt as if "he was being selfish, and not supportive." There were also "trust issues," with Hutchinson having difficulty in trusting the mother. Some of Hutchinson's reported conduct seemed "immature," although it is relatively common "for people to act very differently when they're under a lot of stress." Ultimately, the mother left to begin attending therapy with Wendling, evidently because Wendling could prescribe medications.

Although Wojewoda opined that the mother had made progress in terms of "mood management," the progress was "convoluted by her frustration with what was going on with the children." She displayed "desperation" about achieving reunification. However, after her relationship with Hutchinson commenced, the therapy increasingly focused on "how healthy" that relationship was. Wojewoda agreed that, "[g]enerally" speaking, there is "an ongoing concern about [the mother's] relationship patterns with men," but it was difficult for him to accurately assess her relationship with Hutchinson given that she was not attending therapy on a regular basis. In the therapy sessions that Hutchinson attended, the couple sometimes engaged in "high intensity" arguments. Wojewoda believed that the mother was a "very strong willed, very opinionated" person, which sometimes made her prone to "combativeness," but he viewed this as "a strength" when handled "appropriately[.]"

As character witnesses, the mother called several of her friends, whose testimony the trial court summarized as follows:

> Mother's parenting skills were also testified to by three of mother's friends: Amy Parsons, Erin Zajac and Tracey Rush. Each of these friends knew of mother's relationship with Mr. Hutchinson and believed it was good. However, one friend thought that mother was engaged to Mr. Hutchinson, while another friend determined that it was only a "friend" status and wasn't aware that mother may be married to Mr. Hutchinson. All three friends also indicated how truthful mother is. However, none of them knew of the "no contact" order between the children and Mr. Hutchinson. They did not know of mother's criminal background. They did not know of any separations between mother and Mr. Hutchinson. . . . And, Ms. Rush indicated that she believed that mother would never choose Mr. Hutchinson over the children.

The foster father testified that when the children were initially placed with the foster parents, HM was three years old, and CB was one year old. The foster parents were initially told it would be a short-term placement and that the minor children were not adoptable, but they were open to the idea of adoption and had resolved that they would "be available to [HM] and [CB] as long as" the children needed them. The household was financially stable and the foster parents had resided in their current house for slightly less than 15 years.

According to the foster father, a loving bond existed between the foster parents and the minor children, and if the children were ultimately reunified with either their mother or father, the foster parents would be interested in maintaining a relationship with the children, but the mother had, in the past, made statements indicating that she would not be amenable to such an arrangement. Both minor children would spontaneously tell the foster parents that they loved them, and the children referred to them "as mommy and daddy." The children would also refer to respondents as "mommy and daddy," but when they felt a need "to clarify," they would refer to respondent mother as "my visit mommy" and to respondent father as "my daddy that's in jail."

Although the foster parents' relationship with the mother had been "cordial" and "friendly" for the first several months, the relationship had "degraded over time," taking a particularly bad turn after the foster parents reported HM's comments about her contact with Hutchinson to caseworkers. In her next interaction with the foster father, the mother "was quite angry" and said, "When I get these kids back, you'll never see them again."[4] At one point, a weeping HM told the foster father "that her mother told her to lie to [the foster parents]" about "what went on at visits."

The foster father described his family's religious views as "very traditional, very conservative." The minor children attended church services with the foster parents and "activities such as Sunday school," and they visited "the fair," parks, museums, holiday events, and various events for children. Initially, HM had "[a]bsolutely" struggled in adjusting to the foster placement at times, particularly after visits with respondents, but "from the beginning," she struck the foster father "as a rather resilient child in that respect." At one point, HM bit the foster mother's brother

[4] The mother admitted that she made that comment "out of anger" and "shouldn't have."

on the shoulder during a visit, seemingly in "excitement," and she tended to use profanity or age-inappropriate language, e.g., describing a Christmas tree outside a church as "a big ass tree." Moreover, there were times when HM would become upset about missing the mother. CB would sometimes return from unsupervised visits soiled and wet, wearing the same diaper he had worn when he left the foster parents' home, which caused diaper rash issues. HM had reported having bad dreams involving Hutchinson. After unsupervised visits with the mother, the minor children "didn't seem to have control of their own actions or emotions[.]" Upon returning from such visits, the children were "smoky smelling" and would "be bouncy, energetic, had difficulty responding to direction, things like that." HM was "more defiant, more disconnected, and so forth following those visits." After the visits became supervised, things were "markedly different," with less "acting out . . . after the visits."

Although the foster father had not perceived much benefit to HM from her therapy sessions with Brown, subsequent therapy with Sember—who seemed to be "much more experienced" and "very good at what she does"—had definitely seemed to benefit HM. The foster parents had also benefited, learning better techniques to address problematic behaviors. Since beginning therapy with Sember, HM's behavior and use of language had both improved.

In terms of disciplining the minor children, the foster father indicated that he and his wife generally used "time outs" or "a reward or loss of privilege type of thing." On occasion, however, when HM's misbehavior "seemed to be . . . sourced by excess energy," the foster parents would have her engage in "calisthenics," such as "leg lifts[.]" When they "were informed that was inappropriate," they ceased using exercise as a form of discipline.

The foster mother indicated that the minor children generally spoke very little about Hutchinson, though HM had described one of her nightmares as a very bad dream involving Hutchinson. On another occasion, HM had described Hutchinson's car as "very cold" and "very dirty," also mentioning "bad music with bad words." HM had also spontaneously indicated that she had seen the mother "hitting" Hutchinson when she was "mad" at him. The foster mother also opined that the minor children had shown less anxiety during a six-week period when the mother's parenting time had been suspended entirely.

The minor children's maternal grandmother testified that she was living in a three-bedroom home in Kingston with the mother, HH, and Hutchinson, but they had recently been served an eviction notice. Because the mother was unemployed, Hutchinson and the maternal grandmother paid the household bills. The maternal grandmother described the relationship between the mother and Hutchinson as "[g]ood" and believed that Hutchinson was "a good dad" to HH. But the maternal grandmother also indicated that she was not aware of either Hutchinson's criminal background or the no-contact order concerning him. The maternal grandmother indicated that she is disabled as a result of several psychological disorders, including bipolar disorder, schizophrenia, depression, anxiety, and a sleeping disorder of some sort. When the mother was "10 or 11" years old, she and her siblings were removed from the maternal grandmother's care following a CPS investigation regarding substance-abuse issues and placed with the maternal grandfather, where they remained, never returning to the maternal grandmother's home.

Hutchinson testified that he was unemployed, having recently been "wrongfully terminated" from the dairy farm where he had been working and was still residing with the mother.

Before he was terminated, his whole paycheck, other than what was deducted for child support, had been going to pay household expenses for his home with respondent mother, including "all" of the $800 monthly rent. He had "job opportunities out of state" where he might earn $26 an hour, but because of these proceedings, he had been unable to capitalize on such opportunities. Hutchinson "grew up with a hard life." His parents were separated, his father died when he was 13 years old, and his mother "worked all the time," so he "grew up out in the streets basically." He said that he was "battered as a kid, picked on, beat up, [and] lit on fire." If someone "tried taking advantage of him," he "handled it without question, you know." After ending up in prison, however, he "just didn't want that lifestyle no more" and tried to rehabilitate himself.

When asked what "kind of dad" he was for HH, Hutchinson responded: "Great." Aside from HH, Hutchinson has four other children, all of whom reside with their mother, although he receives parenting time. He admitted to the incident involving his son, RH, denying that he ever struck or harmed RH and indicating that no criminal charges had been filed, nor had the ensuing CPS investigation resulted in any agency action against him. Hutchinson also admitted to a previous domestic-violence charge involving the mother of his four other children, but he denied that he was ever convicted of that offense, stating that it was nevertheless on his record.

When asked to explain the basis for his second-degree criminal sexual conduct conviction, which involved a 2009 incident with his former romantic partner MG, Hutchinson indicated that he had been falsely accused, responding as follows:

> I mean, we had an altercation, I was moving out of her place, been away for a week. Went back to go get my things. She wasn't there, I was packing, took a little bit longer. My brother was on parole, he was the one that was going to give me the ride. Since it was going to violate his curfew, told him to go home since she wasn't there. I was going to stay, come back and get me in the morning. She ended up showing up that night with another guy. We all stayed up talking because it was a guy that I ended up going to school with that I haven't seen in about 20 years. So, you know, we all kind of talked. And then after he left, you know, I mean, I—I went to bed before he left, but it was only like a couple minutes. And then she tried coming and laying in bed with me, and I didn't want her to come laying in bed. And, you know, she tried basically, you know, having sex with me, and I told her to go sleep out on the couch. Didn't want to. And I was like look, you probably just got done sleeping with him. I don't want to sleep with a whore. So, she slapped me, and I ended up pushing her, and she went out onto the couch and slept. Next thing you know, I was getting woke up to the cops coming in, and arresting me. And I went to jail for domestic violence. And then all of a sudden, it kept on proceeding to a CSC 4th, CSC 3rd, CSC 2nd. And then finally I got threatened with 30 to life, and I took a plea.
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> * * *
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> Supposedly she just had the phone in her hand saying why am I holding her hostage when a friend had shown up that morning, and the door was wide open and stuff. She could've left. At any point and time [sic], she could've left, you know. Never did, and basically just said that I held her hostage. I never did.

As a result of his plea conviction—which Hutchinson agreed "was the victim's fault"—he subsequently served five years in prison. He was released from prison in February 2014, about two years before the instant proceedings commenced. After his initial release, he served 42 days for a parole violation involving his failure to attend an ordered "CSC class," in which he refused to participate because he "felt that [he] didn't need to take the class." Thereafter, he had been convicted of "[f]ailure to register as a sex offender[.]" He denied that he had *actually* failed to timely update his address after moving, claiming that those with whom he resided at the time had provided the police with an inaccurate "date" regarding his change of residence. On cross-examination, however, Hutchinson admitted that he had been convicted for failing to duly update his sex-offender registration at least twice. When he was confronted with *three* different certified judgments of sentence for different violations, he denied having three such convictions, explaining: "I believe one of them was dismissed."

Hutchinson said he was not sure how many PPOs had been issued against him in the past, but volunteered that he had gotten "in trouble for violating a PPO" in the past. Specifically, he had been arrested sometime around 2006 for violating a PPO after MG reported that he had shown up at her home, contrary to a PPO, and "push[ed] her down some steps supposedly." Hutchinson admitted that he did show up at MG's house, allegedly with her permission, but he denied pushing her down the stairs.

Hutchinson confirmed that he and the mother had been engaged to be married for more than two years. The mother helped keep him "focused on what's important in life" and prevented him from "acting irrationally[.]" The mother had suffered three miscarriages during their relationship, which he attributed to the stress of this case. Hutchinson believed that he had an "[e]xcellent" relationship with the mother, and although it had been an "off and on" relationship "for the last three years," he denied any "domestic violence" in the relationship. When asked why the relationship had been "off and on," Hutchinson blamed "CPS" for depicting him as a "horrible person" and a bar to reunification to the mother, explaining that they had "separated" at times because of the mother's desire to be reunified with the minor children. But Hutchinson "f[ought] for [the] relationship," which was eventually "rekindled," telling the mother: "[T]hey can't, you know, just throw me in the mix of it because of something that happened in my past." He was admittedly aware that caseworkers had advised the mother on "[c]ountless" occasions that if he were to "move out," then the caseworkers would be inclined to recommend reunification. Even so, he did not perceive the mother as having chosen her relationship with him over the minor children.

Hutchinson admitted that, although he had attended some therapy sessions with the mother, he had not attended any individual counseling of his own. Nor had he undergone a psychological evaluation, though he had been willing do so. He explained that "CPS never ordered" him to submit to such an evaluation, and he had been uncertain whether his insurance would pay for it. Hutchinson believed that CPS, rather than the trial court, was responsible for "issuing . . . orders" in this case.

Hutchinson denied that the mother had ever left him "completely alone" with the minor children when his presence at parenting visits had been permitted, and he initially denied having ever violated the trial court's no-contact order. However, when asked whether he "ever had any kind of contact with the kids during the time that a no contact order was in place," he admitted that

he had done so "[o]nce," citing the jailhouse telephone conversation. He admitted that he was aware, during that telephone call, that he was violating the no-contact order, but he denied that he had been present during any other unsupervised visits, including one following which HM had reported his presence.

When asked about getting "upset" during the course of these proceedings, Hutchinson admitted that he had sometimes done so, at times feeling that he and the mother had been "lied to," that the mother had been "manipulate[d] . . . into things," and that certain conduct on behalf of caseworkers had "just been ridiculous." Based on his former studies at a prison law library, Hutchinson opined that "CPS should've never taken [the mother's] kids from her," and he described petitioner's actions in this case as "just ripping the kids away, and doing whatever they can to take them from her instead of helping her." With regard to one incident in particular, he explained:

> I just felt like somebody else is doing something wrong, and when somebody else is—when I feel somebody else is doing something wrong, I let my mind be spoken. And sorry if things get a little hostile because, you know, I mean other people disagree, and they started getting their voices loud. So, I do, too.

He admitted that sometimes his "emotions got the better of [him]," but he explained that he did not "intend to come off" as hostile or threatening. He also admitted that, on several occasions, things became "heated" during meetings with caseworkers, agreeing that his "emotional outbursts" during such meetings "were . . . the fault" of caseworkers, who "gloated" him into losing his temper. In describing his frustration with these proceedings in general, Hutchinson said: "It's like somebody poking at your chest, and you just want them to stop, and, you know—" On redirect examination, he indicated that he felt that petitioner's trial counsel and the LGAL had been "badger[ing]" him with their questions. Thereafter, when the LGAL again cross-examined Hutchinson, asking him whether he understood the "role" of the various parties involved in this case, he answered: "You're the guardian ad litem, but you're working with CPS is my belief, okay? Because you're not doing—in my belief, you're not—" His response was interrupted by a sustained objection to his answer being nonresponsive.

The mother was the termination hearing's final witness. When asked what originally led to the minor children's removal from her care, she replied, "Nothing was done until my messed up testimony against [the father]." The mother admitted that she did not "testify truthfully" in the domestic-violence proceedings against the father. She had been afraid of the father and had committed perjury to protect herself and her children, all of whom had then been residing with the father "at his sister's house," contrary to a "no contact" order. Both the mother's "original husband" and respondent father had physically abused her.

The mother believed that she would require therapy "off and on probably for the rest of [her] life." But she was "now on medication to help stabilize [her] moods," including Xanax and Trileptal, and she believed that her parenting skills had improved throughout this case and that she had benefited from services. She was abstaining entirely from narcotics and nonprescribed medication, and she only consumed alcohol in moderation, "[o]ccasionally," on holidays and perhaps her birthday.

On direct examination, the mother testified that she had obtained housing and, in concert with the maternal grandmother and Hutchinson, had sufficient income to maintain such housing. On cross-examination, however, she admitted that her application for Social Security disability benefits had been denied in 2018, though she had a pending appeal of that decision. The mother also conceded that she had neither notified caseworkers when she had moved in November 2019, nor yet provided the address of her current residence—where she had been living for several months—to caseworkers. Indeed, at the final termination hearing on January 15, 2020, the mother admitted that she was no longer residing in a house at all. Rather, she was residing in "a camper," which belonged to somebody else and was parked outside a home owned by friends. Although the camper was equipped with electricity and heat, it had no running water. The camper's occupants were "welcome" in the friends' home at any time, but they were nevertheless residing in the camper because there was not sufficient room in the household, where 10 people were already residing. The mother did not intend to live in the camper permanently; rather, she and Hutchinson had been looking into buying a low-cost home at auction and renovating it, and they had also been researching apartments.

Whereas the mother admitted that her relationship with the father had been "unhealthy," she believed that the opposite was true of her relationship with Hutchinson, who was "very caring, and supportive." She was aware that Hutchinson was a registered sex offender when she began dating him, but she decided to pursue a relationship with him because she was "taught to make [her] own opinion of people, and not follow the crowd per se." She denied that Hutchinson would "yell" at her and indicated that there was no violence in their domestic relationship. Nor had he ever done anything "inappropriate with [the minor children] in any way[.]"

The mother denied that Hutchinson had ever been permitted to be alone with the minor children. She also agreed that they had violated the no-contact order only "[o]nce," during the jailhouse telephone conversation. The mother indicated that this violation was a result of her "confusion." She had believed that the no-contact order would only go into effect after Hutchinson was released from jail, but she admitted that she was "completely in the wrong regardless" and should have sought clarification from caseworkers instead of relying on her own interpretation of the no-contact order. Also, like Hutchinson, the mother denied having violated the no-contact order by having Hutchinson present in person—as HM had reported—during an unsupervised visit. The mother explained that HM "lies" and "makes up stories when she misses people." The mother also denied that she ever "put [HM] in a window to wave to [Hutchinson] outside," opining that this "untrue" allegation had caused "one of [her] miscarriages."

The mother denied that she had chosen her relationship with Hutchinson over reunification with the minor children, explaining that the caseworkers "don't know" Hutchinson and have an inaccurate opinion of him "solely based on his past[.]" But she and Hutchinson were "a power couple" and were "more than willing to show everybody that they are wrong." Additionally, the mother did not understand why caseworkers would want her to disturb HH's family structure "to get these other two [i.e., HM and CB] back." Doing so was "not fair to" HH. In the end, the mother decided to remain in her relationship with Hutchinson because it was simply "too hard to be without him." She also admitted that she harbored "animosity" toward both Sember and Collis. She indicated, however, that if given an "ultimatum" by the trial court to either end her relationship with Hutchinson or have her parental rights to the minor children terminated, she would

"[a]bsolutely" pick the minor children, though it would be a "hard" decision because, in her view, doing so would be detrimental to HH.

The mother indicated that she was bonded with both children, admitting, however, that because CB "was taken really young," her bond with him was "not as strong" as her bond with HM. During these proceedings, the mother felt that her "relationship with [the] children ha[d] not been encouraged" by the foster parents or caseworkers. Nevertheless, if her parental rights were terminated in these proceedings, she opined that it would be better for the minor children to remain with the foster parents than to be reunited with the father.

At the conclusion of the termination hearing, the trial court took the matter under advisement. It later issued a lengthy opinion and an order terminating the mother's parental rights under the statutory grounds noted earlier. This appeal followed.

II. ANALYSIS

On appeal, the mother raises several distinct claims of error. We address each in turn.

A. ABUSE OF PROCESS

The mother argues that "the Prosecutor" committed an abuse of process by prompting petitioner, who was represented below by various assistant prosecutors, to file a petition against the mother in this matter in retaliation for her failure to testify truthfully in the domestic-violence case against the father. On that basis, the mother asks this Court to "[m]ake a finding that the Tuscola County Prosecutor committed Abuse of Process[.]" We perceive no error warranting appellate relief here and decline to make any such "finding."

"Generally, an issue is not properly preserved if it is not raised before, and addressed and decided by, the trial court." *Hines v Volkswagen of America, Inc*, 265 Mich App 432, 443; 695 NW2d 84 (2005). In the context of this child protective proceeding, the trial court could not and did not consider and decide this issue. Hence, it is unpreserved and subject to the plain-error standard set forth in *People v Carines*, 460 Mich 750; 597 NW2d 130 (1999). See *In re Ferranti*, 504 Mich 1, 29 & n 13; 934 NW2d 610 (2019); *In re VanDalen*, 293 Mich App 120, 135; 809 NW2d 412 (2011).[5] The *Carines* plain-error test has four elements:

> 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) . . . the plain error affected substantial rights . . . [, and 4)] once a defendant satisfies these three requirements, an appellate court must exercise its discretion in deciding whether to reverse. Reversal is warranted . . . when the plain, forfeited error . . . seriously affected the fairness, integrity or public reputation of judicial proceedings

[5] In *In re Ferranti*, 504 Mich at 29 n 13, our Supreme Court noted that the *Carines* test may not be the *proper* standard to apply in such circumstances, but the Court nonetheless applied it "because neither party ha[d] argued for a different standard for juvenile proceedings despite the differences between these cases and criminal cases." Because the parties in this case have likewise not argued that this Court should apply a different standard of review, we apply the *Carines* standard.

> . . . . [*People v Randolph*, 502 Mich 1, 10; 917 NW2d 249 (2018), quoting *Carines*, 460 Mich at 763 (alterations and ellipses in *Randolph*).]

"A 'clear or obvious' error under the second prong is one that is not subject to reasonable dispute." *Randolph*, 502 Mich at 10. The third element "*generally* requires a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings." *Carines*, 460 Mich at 763 (emphasis added). "It is the defendant rather than the Government who bears the burden of persuasion with respect to prejudice." *Id*. (quotation marks and citation omitted).

In Michigan, "abuse of process" is recognized as an intentional tort. *Radu v Herndon & Herndon Investigations, Inc*, 302 Mich App 363, 372; 838 NW2d 720 (2013); accord *Yoost v Caspari*, 295 Mich App 209, 212; 813 NW2d 783 (2012) (discussing "the tort of abuse of process in Michigan"). Indeed, in her argument of this issue, the mother tacitly admits as much, citing *Bonner v Chicago Title Ins Co*, 194 Mich App 462; 487 NW2d 807 (1992), for its statement concerning the elements of such a "claim," as follows:

> To recover pursuant to a theory of abuse of process, a plaintiff must plead and prove (1) an ulterior purpose, and (2) an act in the use of process that is improper in the regular prosecution of the proceeding. In *Vallance v Brewbaker*, 161 Mich App 642, 646; 411 NW2d 808 (1987), this Court described a meritorious claim of abuse of process as a situation where the defendant has used a proper legal procedure for a purpose collateral to the intended use of that procedure. The Court further stated that there must be some corroborating act that demonstrates the ulterior purpose. *Id*. A bad motive alone will not establish an abuse of process. [*Id*. at 472 (citation omitted).]

The mother fails to cite any authority for the proposition that a civil claim for abuse of process—against a nonparty county prosecutor—serves as some sort of defense or ground warranting reversal with regard to an order terminating parental rights in a child protective proceeding. Nor are we cognizant of any such authority. Moreover, the mother fails to raise any change-of-law argument that this Court should *recognize* abuse of process as a defense or ground for reversal in cases such as this. Regardless, given that child protective proceedings are statutory creatures that are governed by Chapter XIIA of the Probate Code of 1939, MCL 710.21 *et seq*., we conclude that it would be improper for us to announce such a novel holding as a matter of common law. See *Woodman ex rel Woodman v Kera LLC*, 486 Mich 228, 246; 785 NW2d 1 (2010) (holding that courts should generally "defer policy-based changes in the common law to the Legislature"). Therefore, we deem the mother to have abandoned any claim for appellate relief—in the form of reversal—based on her instant "abuse of process" argument. See *In re Spears*, 309 Mich App 658, 674-675; 872 NW2d 852 (2015) ("an appellant abandons an argument made with only superficial treatment and little or no citation of supporting authority").

Furthermore, to the extent that the mother asks this Court to "[m]ake a finding that the Tuscola County Prosecutor committed Abuse of Process," we refuse to address that improperly asserted civil claim. "There is one form of action known as a 'civil action,' " MCR 2.101(A), "it is blackletter law that a civil action is commenced by filing a complaint with the court," *Olin v Mercy Health Hackley Campus*, 328 Mich App 337, 355; 937 NW2d 705 (2019) (quotation marks,

brackets, and citation omitted), and as a matter of due process, a defendant in a civil action must be served with notice "reasonably calculated to inform [the defendant] that an action . . . is pending," *Krueger v Williams*, 410 Mich 144, 166; 300 NW2d 910 (1981). The instant proceedings were initiated by the filing of a petition by petitioner, the Department of Health and Human Services, and thus this is not a "civil action" under our court rules. See MCR 2.101(B) ("A civil action is commenced by filing a complaint with a court."). Moreover, neither the Tuscola County Prosecutor nor any of his staff are a party to this child protective proceeding, and there is no indication that such individuals have been served with a summons or complaint informing them of a pending civil action against them. See generally MCR subchapter 2.100 (governing service of process in civil actions). In short, this is not a civil action in which the mother can properly assert a claim for abuse of process. Hence, we decline her invitation to announce "a finding," which would actually be more akin to a *verdict*, that the Tuscola County Prosecutor is liable to her for the tort of abuse of process.

B. THE MOTHER'S ADJUDICATORY PLEA

The mother argues that her trial attorney performed ineffectively by failing to advise her of the consequence of entering her pleas of admission and no-contest for purposes of adjudication. The mother also argues that her pleas were invalid because they were entered without sufficient warning concerning the consequences. We are unpersuaded on both grounds.

Insofar as the mother directly challenges the validity of her "plea" here, because she did not move to withdraw her plea below "or otherwise object to the advice of rights" that was provided, her claim of error is unpreserved and subject to *Carines* plain-error review. See *In re Pederson*, ___ Mich App ___, ___; ___ NW2d ___ (2020) (Docket No. 349881); slip op at 8; see also *In re Ferranti*, 504 Mich at 29 & n 13. On the other hand, in the context of a claim of ineffective assistance of counsel, the germane inquiry is simply whether a *Ginther*[6] hearing took place.[7] In this case, no *Ginther* hearing was requested or conducted, and thus "our review is limited to the facts on the record." *People v Wilson*, 242 Mich App 350, 352; 619 NW2d 413 (2000). "Whether defense counsel performed ineffectively is a mixed question of law and fact; this Court reviews for clear error the trial court's findings of fact," if any, "and reviews de novo questions of constitutional law." *People v Trakhtenberg*, 493 Mich 38, 47; 826 NW2d 136 (2012).

We first address the mother's direct claim of error concerning her plea. Instead of proceeding to an adjudicatory trial, "[a] parent may . . . waive his or her right to a trial and admit the allegations in a petition or plead no contest to them." *In re Pederson*, ___ Mich App at ___; slip op at 9.

> Pleas generally waive certain rights, and respondents' jurisdictional pleas in this case effectively waived, among other things, their rights to a jury trial, to cross-examine the witnesses against them, and to force petitioner to prove grounds

[6] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

[7] "The principles applicable to claims of ineffective assistance of counsel in the arena of criminal law also apply by analogy in child protective proceedings[.]" *In re Martin*, 316 Mich App 73, 85; 896 NW2d 452 (2016).

> for jurisdiction at a trial. See MCR 3.971(B)(3) (enumerating the rights that a respondent must be advised that he or she will waive by entering a jurisdictional plea). "Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." *Brady v United States*, 397 US 742, 748; 90 S Ct 1463; 25 L Ed 2d 747 (1970). Hence, for a plea to constitute a valid waiver of constitutional rights, the person entering it must be made "fully aware of the direct consequences of the plea." *People v Cole*, 491 Mich 325, 333; 817 NW2d 497 (2012) (quotation marks and citation omitted). "A consequence is 'direct' where it presents 'a definite, immediate and largely automatic effect' on the defendant's range of punishment." *United States v Kikuyama*, 109 F3d 536, 537 (CA 9, 1997), quoting *United States v Wills*, 881 F2d 823, 825 (CA 9, 1989). [*In re Pederson*, ___ Mich App at ___; slip op at 9.]

"In the context of jurisdictional pleas in child protective proceedings, '[o]ur court rules reflect this due-process guarantee.' " *Id*., quoting *In re Ferranti*, 504 Mich at 21. When the mother entered her jurisdictional plea in September 2016, MCR 3.971 provided, in pertinent part:

> (B) Advice of Rights and Possible Disposition. Before accepting a plea of admission or plea of no contest, the court must advise the respondent on the record or in a writing that is made a part of the file:
>
> * * *
>
> (3) that, if the court accepts the plea, the respondent will give up the rights to
>
> (a) trial by a judge or trial by a jury,
>
> (b) have the petitioner prove the allegations in the petition by a preponderance of the evidence,
>
> (c) have witnesses against the respondent appear and testify under oath at the trial,
>
> (d) cross-examine witnesses, and
>
> (e) have the court subpoena any witnesses the respondent believes could give testimony in the respondent's favor;
>
> (4) of the consequences of the plea, including that the plea can later be used as evidence in a proceeding to terminate parental rights if the respondent is a parent.

In this instance, before accepting the mother's pleas of admission and no-contest, the trial court informed the parties that "if a plea was entered," the court "would not terminate parental rights" at "the initial disposition," as petitioner had requested. The trial court also questioned the mother about whether she understood her attorney's "representations as to . . . entering a plea" and

the rights the mother would waive by doing so. Specifically, the court explained that the mother would be "giving up [her] right to a trial by a Judge or a jury," "to have the petitioner prove the allegations in the petition by . . . a preponderance of the evidence," "to have witnesses come in and testify in [her] presence," "to have [her] attorney cross-examine, and examine any and all witnesses that are presented," and "to have [the court] order witnesses on [her] behalf to testify at . . . trial[.]" The court further advised the mother:

> [T]here are possible consequences of your plea. Not all of these consequences will be—will apply, but you need to be informed of the consequences. This plea can later be used as evidence in a proceeding to terminate parental rights. While I've indicated that at the time of the initial disposition I do not believe that I would terminate your parental rights, thereafter, if things are not complied with, this Court can go forward and actually terminate parental rights.
>
> * * *
>
> That there would be involvement by the Department of Health and Human Services to see what problems actually exist within your family, and how and whether those problems can be solved. That the Court can make these two children temporary wards of the Court, placing them with you, with their father, with relatives, or in foster care. The Court can order programs for you and your children to be involved in, including but not limited to parenting classes, counseling, or drug or alcohol treatment. Or the Court could actually dismiss the case if there was no need for the court to be involved.

When asked whether she understood the trial court's advice of rights, the mother indicated that she did, and when asked whether she had any questions about that advice of rights, she ultimately replied: "No, not at this time."

In other words, the trial court provided the mother with an advice of rights that satisfied all of the requirements of MCR 3.971(B)(3), advising her that, by entering her plea, she was waiving her rights to (1) an adjudicatory trial before a judge or jury, (2) force petitioner to prove the allegations in the initial petition by a preponderance of the evidence, (3) confront witnesses against her at the trial, (4) cross-examine witnesses, and (5) subpoena witnesses on her behalf. The trial court's advice of rights also satisfied MCR 3.971(B)(4), specifically advising the mother concerning the consequences of her plea, including that it could be used as evidence against her in subsequent termination proceedings. Thus, the mother's instant claim of error fails under the first prong of plain-error review. The trial court did not err at all, let alone plainly err, by providing the advice of rights that it did in this case with regard to the consequences of the mother's plea.

We now turn to the mother's related claim of ineffective assistance of counsel. The "defendant has the burden of establishing the factual predicate for his claim of ineffective assistance of counsel. . . ." *People v Hoag*, 460 Mich 1, 6; 594 NW2d 57 (1999).

> Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise. To establish an ineffective assistance of counsel claim, a defendant must show that (1) counsel's performance was below an

> objective standard of reasonableness under prevailing professional norms and (2) there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. [*People v Lockett*, 295 Mich App 165, 187; 814 NW2d 295 (2012) (citations omitted).]

"A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland v Washington*, 466 US 668, 694; 104 S Ct 2052; 80 L Ed 2d 674 (1984). The "reasonable probability" standard can be satisfied by less than a preponderance of the evidence. *Trakhtenberg*, 493 Mich at 56.

The "reviewing court must not evaluate counsel's decisions with the benefit of hindsight," but should "ensure that counsel's actions provided the defendant with the modicum of representation" constitutionally required. *People v Grant*, 470 Mich 477, 485; 684 NW2d 686 (2004), citing *Strickland*, 466 US at 689 ("A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time."). "Defense counsel is given wide discretion in matters of trial strategy because many calculated risks may be necessary in order to win difficult cases." *People v Unger*, 278 Mich App 210, 242; 749 NW2d 272 (2008). Thus, there is a "strong presumption that trial counsel's performance was strategic," and "[w]e will not substitute our judgment for that of counsel on matters of trial strategy[.]" *Id.* at 242-243. "Yet a court cannot insulate the review of counsel's performance by calling it trial strategy." *Trakhtenberg*, 493 Mich at 52. "The inquiry into whether counsel's performance was reasonable is an objective one and requires the reviewing court to determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." *People v Vaughn*, 491 Mich 642, 670; 821 NW2d 288 (2012) (quotation marks and citation omitted). Accordingly, the reviewing court must consider the range of potential reasons that counsel might have had for acting as he or she did. *Id*.

The mother contends that her trial counsel failed to duly advise her of the consequences of entering pleas of admission or no contest, respectively, to certain allegations in the initial petition. But as noted, before accepting the mother's pleas for purposes of adjudication, the trial court expressly asked her whether she understood her attorney's "representations as to . . . entering a plea," and the mother did not respond that her attorney had not made any such representations, instead indicating that she had no questions about the consequences of her plea. Thus, there is record evidence suggesting that the mother's trial counsel did, in fact, discuss the consequences of the contemplated pleas with the mother before she entered them. Despite the fact that the mother bears the burden of establishing the factual predicate for her instant claim of error, see *Hoag*, 460 Mich at 6, she relies exclusively on her own unsworn allegations as factual support here. The mother has presented no record evidence to establish what representations, if any, her trial counsel made to her concerning the consequences of her plea. Thus, the mother's instant claim of ineffective assistance necessarily fails. See *id*.; *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973) ("Without record evidence supporting the claims, neither the Court of Appeals nor we have a basis for considering them.").

C. STATUTORY GROUNDS

The mother argues that the trial court clearly erred by finding clear and convincing evidence in support of the statutory grounds for termination. We find no such error.

This Court reviews for clear error the trial court's decision whether grounds for termination have been proven by clear and convincing evidence. *In re Medina*, 317 Mich App 219, 236; 894 NW2d 653 (2016). "A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made," with the reviewing court "defer[ring] to the special ability of the trial court to judge the credibility of witnesses." *In re LaFrance*, 306 Mich App 713, 723; 858 NW2d 143 (2014). Any related questions of statutory interpretation are reviewed de novo. *Id*.

"To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been proved by clear and convincing evidence." *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). The clear and convincing evidence standard is "the most demanding standard applied in civil cases[.]" *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995). Evidence is clear and convincing if it

> produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue. [*Id*. (quotation marks, citation, and brackets omitted).]

"Evidence may be uncontroverted, and yet not be 'clear and convincing.' " *Id*. (quotation marks and citation omitted). "Conversely, evidence may be 'clear and convincing' despite the fact that it has been contradicted." *Id*. (quotation marks and citation omitted).

In this case, the trial court found that statutory grounds for termination were established under MCL 712A.19b(3)(c)(*i*), (c)(*ii*), (i), and (j), which permit termination of parental rights under the following circumstances:

> (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
>
> (*i*) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.
>
> (*ii*) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and the parent has failed to rectify the conditions that led to the prior termination of parental rights.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

In our view, the cited statutory ground most clearly supporting termination is MCL 712A.19b(3)(j). For purposes of Subsection (3)(j), the harm in question need not be physical; a "risk of emotional harm" can suffice. See *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011).

With regard to Subsection (3)(j), the trial court reasoned as follows:

The Petition for Termination alleges that "in the past, Respondent Mother has made poor choices regarding the men she has had romantic relationships with. . ." The proofs support this allegation. Mother's first husband was a violent individual that mother subjected her prior children to. Mother again subjected her current children, [HM] and [CB], to father and the domestic violent household [sic]. Further, even when [petitioner] assisted mother with safety plans in the past, mother continued her relationship with father until the filing of the original petition in the current case. And, within a short period of time after this case began, mother associated and attached herself to Mr. Hutchinson, an individual with mental issues and a threatening behavior (pursuant to mother's statements to a police officer.) She continues to maintain this relationship, which has known a form of violence in the past.

The viewing of domestic violence is harmful to children. Pursuant to Ms. Sember, mother needed to prioritize the needs of the children over her own, as well as making appropriate judgments for the children's welfare. And, while mother may have testified that if the Judge would have told her to choose (between the children and Mr. Hutchinson), she would have chosen her children, one wonders why someone else has to tell her this. Why would a parent want to place a child in harm's way? Even the thought that there may be a potential for violence should be safe guarded against. After all, these children have endured enough.

Additionally, the Court cannot tum a blind eye on the deceitfulness of mother and how it has played out within her parenting of the children. Specifically, there was an incident where [HM] lied about [CB] biting her. When confronted about the lying, [HM] has disclosed that mother has told [HM] to lie to the foster parents. This confirms these additional statements that [HM] made during the beginning of the case, wherein her vocabulary was of a greater maturity than her age, thus leaving the counselors and caseworkers with the impression that [HM] had been "spoon fed" statements to say. Pursuant to Ms. Sember, mother needs to

> empathize with her children, to view the world through their eyes. Unfortunately, mother did not and does not grasp this concept. This is detrimental to the children.
>
> Finally, mother's continued lack of stable housing is potentially detrimental to the children. The children, especially [HM], are enrolled in educational programs, requiring continuous attendance. Mother has been in at least four homes over the past 3 years, and this does not include her couch-surfing during the "in between" times. To uproot children and move them from place to place is not good. [HM] is a child that needs stability and a routine. She is a clock-watcher. When routine is skewed, [HM's] emotions are skewed. Without a stable home, the children would be without that necessary routine for children their ages. The children would be harmed.
>
> Pursuant to the above clear and convincing evidence, there is a reasonable likelihood, based on the conduct of mother, wherein she has not made progress to mitigate or eliminate the issues that she was to address, that [HM] and [CB] will be harmed if they are returned to the home of mother. [Brackets in original changed to parentheses; ellipsis in original.]

We are not definitely and firmly convinced that the trial court made a mistake in this regard. On the contrary, we agree there was clear and convincing evidence that, based on the mother's conduct, there was a reasonable probability that the minor children would be harmed if returned to the mother's home.

To begin with, at the time of termination, the mother admittedly had no permanent home; she was living in a borrowed camper, parked on land that she did not own, without running water. Moreover, she was residing in that trailer with Hutchinson—a registered sex offender with a violent criminal history (including a history of domestic-violence convictions and violations of PPOs held by his former romantic partners), whose admitted inability to control his "emotions," particularly his anger, was demonstrated time and again throughout this case. Indeed, it is clear that Hutchinson had difficulty controlling his mercurial temper even while testifying in open court. Additionally, in nearly every instance when Hutchinson was questioned about his criminal past and his former actions in this case, he denied any share of the responsibility, consistently attributing blame only to others. In short, the evidence clearly indicated that he is the sort of man who is both capable of and comfortable with violence, as demonstrated by his testimony that, when growing up, if someone "tried taking advantage of him," he "handled it without question, you know." He also has a demonstrated track record of losing his temper. Moreover, he is not the sort of person whom someone like the mother, with her own track record as a *victim* of domestic violence, would prudently live with, nor the sort of person whom she should willingly expose her minor children. Although there is no evidence that Hutchinson has committed any overt acts of physical violence or sexual assault against the mother, there is ample evidence suggesting that he would be *capable* of doing so with very little, if any, provocation.

In sum, at the time of termination, the mother lacked any suitable place for the minor children to live, and although she had plans to obtain permanent housing, she had expressed similar plans for years without ever attaining the goal of a permanent residence. Moreover, the mother had knowingly chosen to cohabitate with a violent, mean-tempered sex offender, and she had no

plans to cease living with him. That decision made her living arrangements even less suitable for the minor children than they would have been otherwise. Therefore, we cannot conclude that the trial court clearly erred by finding clear and convincing evidence in support of termination under MCL 712A.19b(3)(j). Rather, it seems that the trial court prudently concluded that there was a reasonable likelihood, based on the mother's conduct, that the minor children would have suffered emotional harm, physical harm, or both had they been returned to the mother's care and custody at the time of termination. In light of this conclusion, we need not address the mother's arguments concerning the other statutory grounds relied on by the trial court. See *In re Ellis*, 294 Mich App at 32 ("Only one statutory ground need be established . . . to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds").

D. BEST INTERESTS

Finally, the mother argues that the trial court clearly erred by finding, by a preponderance of the evidence, that termination of her parental rights was in the best interests of each minor child. We disagree.

This Court reviews the trial court's best-interest determination for clear error. *In re Medina*, 317 Mich App at 236. "A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made," with the reviewing court "defer[ring] to the special ability of the trial court to judge the credibility of witnesses." *In re LaFrance*, 306 Mich App at 723.

MCL 712A.19b(5) provides: "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." As explained in *In re Medina*, 317 Mich App at 237:

> Although a reviewing court must remain cognizant that the fundamental liberty interest of natural parents in the care, custody, and management of their children does not evaporate simply because they have not been model parents or have lost temporary custody of their children to the State, at the best-interest stage, the child's interest in a normal family home is superior to any interest the parent has. Therefore, once a statutory ground for termination has been established by clear and convincing evidence, a preponderance of the evidence can establish that termination is in the best interests of the child. [Quotation marks, citations, and brackets omitted.]

"In making its best-interest determination, the trial court may consider the whole record, including evidence introduced by any party." *Id*. at 237 (quotation marks and citation omitted).

> [T]he court should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption. [*In re White*, 303 Mich App 701, 713-714; 846 NW2d 61 (2014).]

In this instance, the trial court issued an extremely thorough opinion analyzing the best-interest factors separately as to each of the minor children. We will not repeat the trial's reasoning here, but we incorporate it by reference and fully adopt it. We perceive no basis for disturbing the trial court's well-reasoned best-interest analysis regarding either of the minor children. On the contrary, we are definitely and firmly convinced that the trial court was correct, not that it made a mistake. Over the course of this case, the mother repeatedly made decisions that betrayed her willingness to place her own perceived interests—including her desire to remain in a relationship with Hutchinson—over the interests of the minor children. This is probably best demonstrated by the mother's desire to expose the minor children to Hutchinson in the first place, despite his violent criminal history, unhinged temperament, and status as a registered sex offender. Moreover, as aptly noted in the trial court's opinion, the foster family's household has obvious benefits compared to the mother's household, not the least of which is Hutchinson's absence. Further, the foster parents, who wish to adopt the minor children, have proven themselves to be both much more dependable and capable day-to-day parents than the mother. There was also a general consensus that it would be traumatic for both minor children—CB especially—to be removed from the foster parents, whom they have come to view as "mommy" and "daddy." In contrast, both children did fairly well with their separation from the mother when her parental visits were suspended for a significant period. For those reasons, we cannot conclude that the trial court clearly erred by finding, by a preponderance of the evidence, that termination of the mother's parental rights was in the best interests of both minor children.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Mark J. Cavanagh
/s/ Jonathan Tukel